

Article - Criminal Law

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§9–804.

(a) A person may not:

(1) participate in a criminal gang knowing that the members of the gang engage in a pattern of criminal gang activity; and

(2) knowingly and willfully direct or participate in an underlying crime, or act by a juvenile that would be an underlying crime if committed by an adult, committed for the benefit of, at the direction of, or in association with a criminal gang.

(b) A criminal gang or an individual belonging to a criminal gang may not:

(1) receive proceeds known to have been derived directly or indirectly from an underlying crime; and

(2) use or invest, directly or indirectly, an aggregate of \$10,000 or more of the proceeds from an underlying crime in:

(i) the acquisition of a title to, right to, interest in, or equity in real property; or

(ii) the establishment or operation of any enterprise.

(c) A criminal gang may not acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property through an underlying crime.

(d) A person may not conspire to violate subsection (a), (b), or (c) of this section.

(e) A person may not violate subsection (a) of this section that results in the death of a victim.

(f) (1) (i) Except as provided in subparagraph (ii) of this paragraph, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$1,000,000 or both.

(ii) A person who violates subsection (e) of this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$5,000,000 or both.

(2) (i) A sentence imposed under paragraph (1)(i) of this subsection for a first offense may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing a violation of this section.

(ii) A sentence imposed under paragraph (1)(i) of this subsection for a second or subsequent offense, or paragraph (1)(ii) of this subsection shall be separate from and consecutive to a sentence for any crime based on the act establishing a violation of this section.

(iii) A consecutive sentence for a second or subsequent offense shall not be mandatory unless the State notifies the person in writing of the State's intention to proceed against the person as a second or subsequent offender at least 30 days before trial.

(3) In addition to the other penalties provided in this subsection, on conviction the court may:

(i) order a person or criminal gang to be divested of any interest in an enterprise or real property;

(ii) order the dissolution or reorganization of an enterprise;
and

(iii) order the suspension or revocation of any license, permit, or prior approval granted to the enterprise or person by a unit of the State or a political subdivision of the State.

(g) (1) This subsection applies to a violation of § 5-602, § 5-603, § 5-604(b), § 5-606, § 5-612, § 5-613, § 5-614, or § 5-617 of this article.

(2) Assets divested under this section and derived from the commission of, attempted commission of, conspiracy to commit, or solicitation of a crime described in paragraph (1) of this subsection, either in whole or in part, shall be deposited in the Addiction Treatment Divestiture Fund established under § 8-6D-01 of the Health – General Article.

(h) A person may be charged with a violation of this section only by indictment, criminal information, or petition alleging a delinquent act.

(i) (1) The Attorney General, at the request of the Governor or the State's Attorney for a county in which a violation or an act establishing a violation of this section occurs, may:

- (i) aid in the investigation of the violation or act; and
- (ii) prosecute the violation or act.

(2) In exercising authority under paragraph (1) of this subsection, the Attorney General has all the powers and duties of a State's Attorney, including the use of the grand jury in the county, to prosecute the violation.

(3) Notwithstanding any other provision of law, in circumstances in which violations of this section are alleged to have been committed in more than one county, the respective State's Attorney of each county, or the Attorney General, may join the causes of action in a single complaint with the consent of each State's Attorney having jurisdiction over an offense sought to be joined.

(j) Notwithstanding any other provision of law and provided at least one criminal gang activity of a criminal gang allegedly occurred in the county in which a grand jury is sitting, the grand jury may issue subpoenas, summon witnesses, and otherwise conduct an investigation of the alleged criminal gang's activities and offenses in other counties.

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